



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-1124 Date: April 24, 2018
Prime Sponsors: Rep. Weissman Bill Status: House Judiciary
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Bill Topic: USE OF CRIMINAL CONVICTIONS IN EMPLOYMENT

- Summary of Fiscal Impact: State Revenue (potential), TABOR Refund (potential), State Expenditure (minimal), Local Government (minimal), State Transfer, Statutory Public Entity

This bill adds positions that involve direct contact with persons susceptible to abuse or mistreatment to the list of professions that may deny employment to a person with a criminal conviction history. It also clarifies that criminal history may be used to assess qualifications for employment and the issuance of certain license-related credentials rather than moral character; allows the Department of Regulatory Agencies to issue conditional credentials to persons with a criminal history; and requires the collection of data during the sunset review process. The bill may increase state revenue and expenditures and local government workload by minimal amounts.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

This bill makes a number of changes regarding the use of criminal history information in employment and licensure-related credentialing decisions.

Denial of employment. Under current law, a person may be denied employment for certain positions or licensing-related credentials based on his or her criminal history. This bill adds professions involving direct contact with persons susceptible to abuse or mistreatment to the list of professions for which a person may be denied.

Credentials. Under current law, certain licenses, certificates, permits, or registrations (referred to herein as a credential) require the state or local agency to make a finding about the applicant's moral character. This bill states that criminal history information may be used to determine whether an applicant is qualified, rather than to assess his or her moral character. The Department of Regulatory Agencies (DORA) may issue a conditional credential to a person with a criminal history and must keep the conditional designation confidential if the applicant has no subsequent convictions after one year or when he or she renews the credential, whichever is later, unless DORA determines that the conditional designation remains necessary. DORA must also collect data about licensing and registration action for inclusion in future sunset reviews.

**Employment rights.** In evaluating an applicant for an offer of employment or a credential, the following may not be used as a basis for denial or adverse action against any applicant who is otherwise qualified:

- when the applicant has been arrested for or charged with but not convicted of a criminal offense and the criminal case is not actively pending;
- when the applicant has been convicted of a criminal offense but pardoned;
- when the applicant has been convicted of a criminal offense but records of the conviction have been sealed or expunged; or
- when a court has issued an order of collateral relief specific to the credential sought by the applicant.

## **State Revenue**

Beginning in the current FY 2017-18, the bill allows the DORA to issue conditional credentials to individuals with criminal convictions, which may increase state cash fund revenue from credentialing fees. As of this writing, it is unknown how many individuals would apply for conditional credentials and for which occupations. As such, the precise impact to state revenue has not been estimated.

## **TABOR Refund**

This bill may increase state revenue from credentialing fees, which may increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. A TABOR refund obligation is not expected for the current FY 2017-18. Since the bill may increase the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget may decrease by an identical amount. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

## **State Expenditures**

Beginning in the current FY 2017-18, this bill increases workload for DORA to conduct outreach and rulemaking; issue any new conditional credentials; and collect data concerning licensing and registration actions for sunset review hearings. These impacts are assumed to be minimal and do not require an increase in appropriations for DORA.

All departments may have an increase in workload to update hiring policies and procedures to comply with the employment practices required by the bill. No change in appropriations is required for any state agency.

## **Local Government**

Similar to the state and beginning in FY 2017-18, to the extent that local governments issue credentials that are affected by the bill, the bill may alter how decisions are made by requiring that criminal history only be used to assess qualifications, rather than character. In so doing, it may cause additional credentials to be issued, which will increase local government revenue and expenditures by an indeterminate amount. Local government employers may also have similar workload to update hiring policies and procedures to reflect the requirements of the bill. These impacts are assumed to be minimal.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State and Local Government Contacts**

All Local and State Agencies